

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, showing signs of post-traumatic stress disorder (PTSD) after coming back from Iraq. The applicant's spouse's 25-week checkup revealed the applicant's child had spinal bifida; following this news, the applicant started to experience anxiety attacks, and their PTSD symptoms became worse. The applicant contends being alienated by their command as a duty dodger who did not want to deploy. Family matters hindered the applicant's capacity to serve. The applicant started to abuse prescription medication and alcohol, but after completing drug treatment, the applicant secured employment as a driver for injured veterans. Through perseverance, the applicant advanced to assistant manager.

b. **Board Type and Decision:** In a records review conducted on 7 March 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), Depression, and Panic Disorder mitigated the applicant's illegal substance abuse, AWOL, and FTR offenses. The Board found that the applicant's remaining medically unmitigated misconduct was outweighed by the applicant's record of service. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*Board member names available upon request.*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 2 March 2012

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 2 February and 14 February 2012

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant Failed to Report (FTR) to accountability formations and other appointed places of duty six times between 6 July 2011 and 17 January 2012.

On 28 November 2011, the applicant was AWOL from their unit until 30 November 2011, when they admitted themselves into Lincoln Trail Behavioral Health System.

As of 4 January 2012, the applicant was three payments behind on their child support totaling \$936. The applicant had not been keeping up with their payments since 15 November 2011. This is in violation of Army Regulation, the UCMJ, and orders from their superiors to pay their child support obligations.

The applicant failed to comply with the orders of their superiors to terminate their Hawaii BAH and COLA entitlements in September 2011. This has put the applicant in debt for \$6,309.92.

The applicant obtained a Schedule II controlled substance, oxycodone, through false pretenses and deceit. Specifically, on 21 September 2011, the applicant lied to their military readiness provider, stating they needed the prescription because they were going on emergency leave for three weeks due to the death of their 13-month-old child. This statement was false.

On 21 November 2011, the applicant lied to two senior NCOs, SSG S., and SSG M., by stating to them the applicant was not at their appointment at Lincoln Trail Behavioral Health System because they had a dental appointment. This statement was false, and the applicant knew it was false when they made it.

**(3) Recommended Characterization:** The initial recommendation was under other than honorable conditions. On 9 February 2012, the applicant having been informed of their right to appear before an administrative separation board due to their length of service as well as the current notification of a characterization of discharge authorized to include an under other than honorable conditions discharge, the applicant requested the command reinstate the notification of separation with a limitation of general discharge (under honorable conditions). Upon receipt of the new notification, the applicant agreed to waive their right to an administrative separation board and allow COL J., to approve a discharge no less favorable than general (under honorable conditions).

**(4) Legal Consultation Date:** 15 February 2012

**(5) Administrative Separation Board:** On 9 February 2012, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

In an undated memorandum, the applicant's conditional waiver was approved.

**(6) Separation Decision Date / Characterization:** undated / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 30 December 2008 / 4 years

b. **Age at Enlistment / Education / GT Score:** 28 / High School Graduate / 105

c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 13B20, U6 Cannon Crewmember / 6 years, 6 months, 21 days

d. **Prior Service / Characterizations:** RA, 9 August 2005 – 29 December 2008 / HD

e. **Overseas Service / Combat Service:** Hawaii, SWA / Iraq (1 August 2005 – 8 August 2005; 5 August 2006 – 15 October 2007; 15 October 2008 – 15 October 2009)

f. **Awards and Decorations:** ICM-3CS, ARCOM-3, AAM, AGCM, NDSM, GWOTSM, ASR, OSR, CAB

g. **Performance Ratings:** 1 November 2008 – 31 October 2009 / Fully Capable  
1 November 2009 – 31 October 2010 / Marginal

h. **Disciplinary Action(s) / Evidentiary Record:** The applicant's Enlisted Record Brief (ERB), 21 February 2012, reflects the applicant was flagged for Adverse Action (AA); Involuntary Separation or Discharge (Field Initiated) (BA).

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From PDY to AWOL, effective 28 November 2011; and  
From AWOL to HOS, effective 30 November 2011.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. **Lost Time / Mode of Return:** 2 days (AWOL, 28 November 2011 – 30 November 2011) / Return to Military Control

**j. Behavioral Health Condition(s):**

(1) **Applicant provided:** Lincoln Trail Behavioral Health System Discharge Summary 29 November 2011, reflects a medical diagnosis.

(2) **AMHRR Listed:** The applicant's medical records, 1 October 2010, reflects a medical diagnosis.

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; self-authored letter; two support letters; Lincoln Trail Behavioral Health System Discharge Summary and Veterans remembered article.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant sought treatment for their behavioral health and after completing drug treatment, the applicant secured employment as a driver for injured veterans and advanced to assistant manager.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will

include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

**(2)** Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** Army Regulation 15-180 (Army Discharge Review Board) sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

**d.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12b addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

f. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program) governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes: RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waiverable. Eligibility: Ineligible unless a waiver is granted.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends struggling from PTSD. The applicant provided Lincoln Trail Behavioral Health System Discharge Summary, 29 November 2011, reflects a medical diagnosis. The AMHRR includes the applicant's medical records, 1 October 2010, also reflecting a medical diagnosis. The AMHRR is void of a mental status report.

The applicant contends being alienated by their command as a duty dodger who did not want to deploy. The applicant did not submit any evidence to support the contention. The evidence of record shows the command attempted to assist the applicant in performing and conducting to Army standards by providing counseling. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends good service, including three combat tours. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The third-party statements provided with the application reflect the applicant's dedication and work ethic.

The applicant contends seeking treatment and obtaining employment. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

## 9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Obsessive Compulsive Disorder (OCD), Depression, Panic Disorder, PTSD, and TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with Adjustment Disorder, OCD, Depression, Panic Disorder, and Chronic PTSD. The VA has service connected the applicant for PTSD and TBI. Service connection establishes that the applicant's TBI also existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of multiple BH conditions that provide partial mitigation for the basis of separation. The applicant was diagnosed in service with Adjustment Disorder, OCD, Depression, Panic Disorder, and Chronic PTSD, and the VA has service connected the applicant for PTSD and TBI. Given the nexus between PTSD, Panic Disorder, and avoidance, the applicant's FTRs and AWOL are

mitigated. Obtaining oxycodone through false pretenses and deceit is also mitigated given the nexus between PTSD, TBI, Panic Disorder, Depression, and self-medicating with substances. Not paying child support, not terminating Hawaii BAH and COLA entitlements as ordered, and lying about the reason for not being at an appointment are not mitigated given that none of the applicant's BH interfere with the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opinion, the Board determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, OCD, Depression, Panic Disorder, PTSD, and TBI outweighed the medically unmitigated offenses of false official statements, failing to pay child support, and failing to obey a lawful order.

**b. Response to Contention(s):**

(1) The applicant contends struggling from PTSD. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Adjustment Disorder, OCD, Depression, Panic Disorder, PTSD, and TBI outweighed the medically unmitigated offenses of false official statements, failing to pay child support, and failure to obey a lawful order. However, the Board found that the applicant's record of service, including multiple tours in Iraq, outweighed the applicant's medically unmitigated misconduct. Therefore, a discharge upgrade is warranted.

(2) The applicant contends being alienated by their command as a duty dodger who did not want to deploy. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the factors discussed in 9b(1).

(3) The applicant contends family issues affected behavior and ultimately causing the discharge. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the factors discussed in 9b(1).

(4) The applicant contends good service, including three combat tours. The Board factored the applicant's service record into the decision to upgrade the discharge.

(5) The applicant contends seeking treatment and obtaining employment. The Board factored the applicant's post-service accomplishments into the decision to upgrade the discharge.

**c.** The Board determined the discharge is inequitable based on the applicant's PTSD, TBI, Depression, and Panic Disorder mitigating the applicant's illegal substance abuse, AWOL, and FTR offenses. The Board found that the applicant's remaining medically unmitigated misconduct was outweighed by the applicant's record of service (length/quality of service, combat service, and post-service accomplishments). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a. The narrative reason for separation was changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD, TBI, Depression, and Panic Disorder mitigated the applicant's

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illegal substance abuse, AWOL, and FTR offenses. The Board found that the applicant's remaining medically unmitigated misconduct was outweighed by the applicant's record of service. Thus, the prior characterization is no longer appropriate.

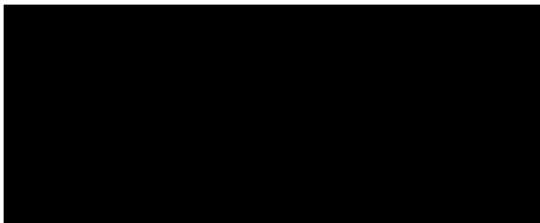
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200

**Authenticating Official:**



**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral Health (Issues)  
OMPF – Official Military Personnel File  
PTSD – Post-Traumatic Stress Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized Discharge  
UOTHC – Under Other Than Honorable Conditions  
VA – Department of Veterans Affairs